

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO ALL  
ACTIONS

**PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL**

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file (a) Plaintiffs' Supplement to Their Opposition to B. Braun of America's Motion to Dismiss the Amended Master Consolidated Complaint and Memorandum of Law in Support of Their Motion to Compel B. Braun of America to Make Supplemental 30(b)(6) Designation ("Supplement"); and (b) Motion to Add B. Braun Medical, Inc. as a Defendant ("Motion to Add") under seal.

1. Pursuant to Paragraph 14 of the Protective Order (Dec. 13, 2002) in this case, the parties may designate deposition testimony as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Within thirty (30) days of receipt of the transcript, the deponent and/or his or her counsel may redesignate or remove such designation from the transcript.

2. Plaintiffs' Supplement and Motion to Add cite significantly to the deposition transcript of B. Braun of America, Inc.'s ("BBA's") Rule 30(b)(6) designee, Cathy Codrea ("Codrea Transcript"). At the beginning of that August 17, 2004 deposition, counsel for BBA asked that the deposition transcript be designated HIGHLY CONFIDENTIAL and stated that BBA would revisit that designation upon receipt and review of the transcript.

3. Because of BBA's counsel's designation of the Codrea Transcript as HIGHLY CONFIDENTIAL, plaintiffs respectfully request leave to file their Supplement and Motion to Add under seal (and have done so contemporaneously with the filing of this motion). Plaintiffs will file unredacted versions of these pleadings with the Court in the event that BBA elects to remove that designation from the Codrea Transcript.

WHEREFORE plaintiffs respectfully request that this Court grant them leave to file their Supplement and Motion to Add under seal, and all other relief that this Court deems just and proper.

Dated: August 24, 2004

By: /s/ Thomas M. Sobol  
One of Plaintiffs' Counsel

Thomas M. Sobol  
Edward Notargiacomo  
HAGENS BERMAN LLP  
One Main Street, 4<sup>th</sup> Floor  
Boston, MA 02110

**LIAISON COUNSEL**

Steve W. Berman  
Sean R. Matt  
HAGENS BERMAN LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

Samuel Heins  
Brian Williams  
HEINS MILLS & OLSON, P.C.  
700 Northstar East  
608 Second Avenue South  
Minneapolis, MN 55402

Jeff Kodroff  
John Macoretta  
SPECTOR, ROSEMAN &  
KODROFF, P.C.  
18181 Market Street, Suite 2500  
Philadelphia, PA 19103

**CHAIRS OF LEAD COUNSEL  
COMMITTEE**

Kenneth A. Wexler  
Elizabeth A. Fegan  
THE WEXLER FIRM LLP  
One North LaSalle  
Suite 2000  
Chicago, Illinois 60602

Marc H. Edelson  
HOFFMAN & EDELSON  
45 West Court Street  
Doylestown, PA 18901

**MEMBERS OF LEAD  
COUNSEL COMMITTEE AND  
EXECUTIVE COMMITTEE**

Michael McShane  
ALEXANDER, HAWES & AUDET  
LLP  
300 Montgomery Street, Suite 400  
San Francisco, CA 94104

Robert E. Piper, Jr.  
PIPER & ASSOCIATES  
624 Pierre Avenue  
Shreveport, LA 71103

**MEMBERS OF EXECUTIVE  
COMMITTEE**

Anthony Bolognese  
BOLOGNESE & ASSOCIATES  
One Penn Center  
1617 JFK Boulevard  
Suite 650  
Philadelphia, PA 19103

Jonathan W. Cuneo  
The Cuneo Law Group  
317 Massachusetts Avenue, N.E.  
Suite 300  
Washington, D.C. 20002

Neal Goldstein  
Freedman & Lorry, P.C.  
400 Market Street, Suite 900  
Philadelphia, PA 19106

Michael E. Criden  
Hanzman & Criden, PA  
Commerce Bank Center, Suite 400  
220 Alhambra Circle  
Coral Gables, FL 33134

Blake M. Harper  
Kirk B. Hulett  
Hulett Harper LLP  
550 West C Street, Suite 21700  
San Diego, CA 92101

Jonathan D. Karmel  
KARMEL & GILDEN  
221 N. LaSalle Street  
Suite 1414  
Chicago, IL 60601  
Philadelphia, PA 19103

Diane M. Nast  
RODA & NAST PC  
801 Estelle Drive  
Lancaster, PA 17601

Henry H. Rossbacher  
ROSSBACHER & ASSOCIATES  
811 Wilshire Boulevard  
Suite 1650  
Los Angeles, CA 90017-2666  
Jonathan Shub  
SHELLER, LUDWIG & BADEY  
1528 Walnut Street  
3<sup>rd</sup> Floor  
Philadelphia, PA 19102

Ira Neil Richards  
TRUJILLO RODRIGUEZ &  
RICHARDS, LLC  
The Penthouse  
226 West Rittenhouse Square  
Philadelphia, PA 19103

Scott R. Shepherd  
SHEPHERD & FINKLEMAN, LLC  
117 Gayley Street, Suite 200  
Media, PA 19063

Mitchell A. Toups  
WELLER, GREEN, TOUPS &  
TERRELL L.L.P.  
2615 Calder Street, Suite 400  
P.O. Box 350  
Beaumont, TX 77704

Damon Young  
Lance Lee  
YOUNG, PICKETT & LEE  
4122 Texas Boulevard  
P.O. Box 1897  
Texarkana, AR/TX 75504

**ADDITIONAL ATTORNEYS  
FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE BY VERILAW**

Docket No. MDL 1456

I, Thomas M. Sobol, hereby certify that I am one of plaintiffs' attorneys and that, on August 24, 2004, I caused copies of PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL to be served on all counsel of record by causing same to be posted electronically via Verilaw.

Dated: August 24, 2004

/s/ Thomas M. Sobol